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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,794	03/19/2004	Delbert L. Austin	Austin 4.1-1	8880
7590	01/31/2006			
Mary M. Moyne McLEOD & MOYNE, P.C. 2190 Commons Parkway Okemos, MI 48864			EXAMINER EPPS, TODD MICHAEL	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/804,794	Applicant(s) AUSTIN ET AL.	
	Examiner Todd M. Epps	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/18/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) 25 and 58-79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-24, 26-30, 32-46, 48-57 and 80 is/are rejected.
- 7) ☒ Claim(s) 9, 31 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This is the second Office Action **final** for serial number 10/804,794, Stabilizing Device, filed on March 19, 2004.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10-14, and 80 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,625,620 to Harris. Harris discloses a bipod, wherein a bracket (11) is configured to connect to the object (fig. 1), legs (12-13) having a first end

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and a second end with first damping material (54, 57, 63, 68, and 75) between the ends, and connected at the first end to the bracket (11), side arms (38-39) having a first end and a second end, and connected at the first end to the bracket (11), and having second damping material (88) positioned on each side arm; the forward arms (34-35) having a first end and a second end forming a longitudinal axis of the forward arm, is connected at the first end to the bracket (11), the forward arms having third damping material (20) positioned along the longitudinal axis of the forward arm; the ends of each leg (12-13) form a longitudinal axis of each leg and wherein the longitudinal axis of one of the legs (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of the forward arm (34-35); the longitudinal axis of the forward arm (34-35) is parallel to the longitudinal axis of the object (fig. 1); the third damping material (20) is spaced apart from the first end of the forward arm (34-35); a forward arm (34-35) connected to the bracket (11), the forward arms (34-35) extend outward from the bracket (11) along the object (fig. 1); the ends of each leg (12-13) form a longitudinal axis of each leg and the ends of each side arm (38-39), and wherein the longitudinal axis of one of the legs (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of one of the side arms (38-39); a plate (30) pivotably connected to the bracket (11), and wherein the legs (12-13) are connected to the bracket (11), and the object (fig. 1) is connected to the plate (30); the bracket (11) includes a first leg (14) and a second leg (15) connected together at an angle by a center portion (19), and wherein one of the legs (12) is connected to the first leg (14) of the bracket (11) and the other of the legs (13) is connected to the second leg (15) of the bracket (11); one of the side arms (38) is

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connected to the first leg (14) of the bracket (11), and the other of the side arms (39) is connected to the second leg (15) of the bracket (11); the first damping material (55, 57, 63, 68, and 75) includes a plurality of separable damping units, at least two of the separable damping units are constructed of damping material having different damping characteristics (fig. 5-8); the second damping material (88) spaced apart from the first ends of the side arms (38-39); and wherein the first damping material is positioned on the legs to reduce vibrations in the bracket in a first direction, and wherein the second damping material reduces vibration in the bracket in a second direction different from the first direction.

Claims 15- 24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,625,620 to Harris. Harris discloses a bipod, wherein a bracket (11) is configured to connect to the object (fig. 1), legs (12-13) having a first end and a second end, and connected at the first end to the bracket (11) with first damping material (45, 54, 57, 63, 68, and 75) positioned on each side arm, side arms (38-39) having a first end and a second end with second damping material (88) between the ends, and connected at the first end to the bracket (11); the ends of each leg (12-13) form a longitudinal axis of each leg and the ends of each side arm (38-39) form a longitudinal axis of each side arm and wherein the longitudinal axis of one of the leg (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of one of the side arms (38-39); the legs (12-13) are pivotably connected to the bracket (11); a plate (30) pivotably

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connected to the bracket and wherein the firearm (fig. 1) is connected to the plate (30) so that the firearm (fig. 1) can be pivoted while the legs (12-13) remain stationary; the second damping material (88) is spaced apart from the first ends of the side arms (38-39); the bracket (11) includes a first leg (14) and a second leg (15) connected together at an angle by a center portion (19), and wherein one of the legs (12) is connected to the first leg (14) of the bracket (11) and the other of the legs (13) is connected to the second leg (15) of the bracket (11); one of the side arms (38) is connected to the first leg (14) of the bracket (11), and the other of the side arms (39) is connected to the second leg (15) of the bracket (11); the first damping material (45, 55, 57, 63, 68, and 75) includes a plurality of separable damping units, and at least two of the separable damping units are constructed of damping material having different damping characteristics (fig. 5-8); and the second ends of the legs (12-13) are provided with feet (45) constructed of a third damping material.

Claims 27- 30, and 32-38 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,625,620 to Harris. Harris discloses a bipod, wherein a bracket (11) is configured to connect to the firearm (fig. 1), legs (12-13) having a first end and a second end with first damping material (45, 54, 57, 63, 68, and 75) between the ends, and connected at the first end to the bracket (11), the forward arms (34-35) having a first end and a second end forming a longitudinal axis of the forward arms (34-35) with the first end of the forward arms (34-35) connected to the bracket (11), and having second damping material (20) positioned on the forward arm; the ends of each leg (12-13) form a longitudinal axis of each leg form a longitudinal axis of each leg and

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wherein the longitudinal axis of one of the legs (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of one of the forward arms (38-39); the legs (12-13) are pivotably connected to the bracket (11); the bracket (11) includes a plate (30) pivotably connected to a bracket (11), the legs (12-13) are connected to the bracket sections (14-15) of the bracket (11) and the firearm (fig. 1) is connected to the plate (30) of the bracket (11); the longitudinal axis of the forward arms (38-39) is parallel to a longitudinal axis of a barrel of the firearm (fig. 1); the second damping material (20) is spaced apart from the first end of the forward arms (38-39); the bracket (11) includes a first leg (14) and a second leg (15) connected together at an angle by a center portion (19), wherein the forward arms (38-39) are mounted on center portion (19) of the bracket (11), and wherein one of the legs (12) is connected to the first leg (14) of the bracket (11) and the other of the legs (13) is connected to the second leg (15) of the bracket (11); the forward arms (38-39) are connected to the bracket (11) so that when the firearm (fig. 1) is connected to the bracket (11), the forward arms (38-39) extend outward from the bracket (11); the first damping material (45, 55, 57, 63, 68, and 75) includes a plurality of separable damping units, and at least two of the separable damping units are constructed of damping material having different damping characteristics (fig. 5-8); the second ends of the legs (12-13) are provided with feet (45) constructed of a third damping material (fig. 7).

Claims 40, 42-46, and 48-56 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,625,620 to Harris. Harris discloses a bipod, wherein a

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bracket (11) is configured to connect to the firearm (fig. 1), legs (12-13) having a first end and a second end with first damping material (45, 54, 57, 63, 68, and 75), and connected at the first end to the bracket (11), and configured so that the second end of each leg contacts the surface; the side arms (38-39) and connected at the first end to the bracket (11), each side arm having second damping material (88) positioned to reduce vibrations in the bracket, the forward arms (34-35) having a first end and a second end and connected to the bracket (11), and having third damping material (20) positioned to reduce vibrations in the bracket.

Regarding claims 42-46, and 48-56, Harris discloses wherein the ends of each leg form a longitudinal axis of each leg (12-13) and the ends of each side arm (38-39) form a longitudinal axis of each side arm (38-39) and wherein the longitudinal axis of one of the legs (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of one of the side arms (38-39); the ends of each leg form a longitudinal axis of each leg and wherein the longitudinal axis of one of the legs (12-13) is at an angle of approximately 90 degrees to the longitudinal axis of the forward arms (34-35); the ends of each leg (12-13) form a longitudinal axis of each leg and the ends of each side arm (38-39) form a longitudinal axis of each side arm and the ends of the forward arm (34-35) form a longitudinal axis of the forward arm and wherein the longitudinal axis of one of the legs (12-13) is approximately at a 90 degrees angle to the longitudinal axis of one of the side arms (38-39) and approximately at an 80 degrees angle to the longitudinal axis of the forward arms (34-35); the legs (12-13) are pivotably connected to the bracket (11); the bracket (11) includes a plate pivotably connected to the bracket section (14-

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15), and wherein the legs (12-13) are connected to the bracket section (14-15) of the bracket (11) and the firearm (fig. 1) is connected to the plate (30); the side arms (38-39) are connected to the bracket section (14-15); the longitudinal axis of the forward arms (38-39) is parallel to a longitudinal axis of a barrel (fig. 1) of the firearm; the second damping material (88) is spaced apart from the first end of the side arms (38-39); the third damping material (20) is spaced apart from the first end of the forward arms (34-35); the bracket (11) includes a first leg (14) and second leg (15) connected together at an angle by a center portion (19), wherein the forward arm (34-35) is mounted on the center portion (19) of the bracket (11) and wherein each of the legs and each of the side arms is connected to the first and second legs (14-15) of the bracket (11); the forward arm (34-35) are connected to the bracket (11) so that when the firearm (fig. 1) is mounted on the bracket, the forward arms (34-35) extend outward from the bracket (11) along a barrel of the firearm in a direction opposite a stock of the firearm; the first damping material (55, 57, 63, 68, and 75) includes a plurality of separable damping units, and at least two of the separable damping units are constructed of damping material having different damping characteristics (fig. 5-8); a plurality of forward arms (34-35), and are spaced apart and parallel.

Claim 57 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,625,620 to Harris. Harris discloses a bipod, wherein a bracket (11) is configured to connect to the firearm (fig. 1), legs (12-13) having a first end and a second end with first damping material (45, 54, 57, 63, 68, and 75) positioned on the leg to reduce

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vibration in the bracket, and connected at the first end to the bracket (11), the side arms (38-39) and connected at the first end to the bracket (11), second damping material (88) positioned on each side arm, the forward arms (34-35) having a first end and a second end and connected to the bracket (11), and third damping material (20) between the ends.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26, 39, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over '620 Patent in view of U.S. Patent No. 6,412,737 B1 to Minagawa. Harris fails to disclose a third leg. Attention is directed to Minagawa reference, which teaches three legs spaced apart approximately 60 degrees about a vertical axis.

Accordingly, it would have been obvious to one ordinary skill in the art at the time the invention was made to have a bipod assembly as taught by Harris as applied above with three legs spaced apart approximately 60 degrees about a vertical axis by Minagawa, wherein doing so would provide thereof stronger support and more stable.

Allowable Subject Matter

Claims 9, 31, and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fails to teach a forward arm connected to the plate.

Response to Arguments

Applicant's arguments filed November 18, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Harris '620 reference which are cited by the Examiner, wherein damping materials are not positioned to reduce vibrations in the bracket. The Examiner clearly disagrees. With the reference to the office action above, the applicant will see that the above references do in fact teach such features. Pad: defined as a thin flat mat or cushion (*Merriam-Webster's Collegiate Dictionary – 10th Edition*). With Harris '620 reference, pad (20) (column 2, line 50) is to protect the finish of a forearm of a rifle, however, it has the ability to absorb vibrations since it is a cushion.

As for the spring, which is defined in *Merriam-Webster's Collegiate Dictionary – 10th Edition*, is an elastic body or device that recovers its original shape when released after being distorted. With Harris '620 reference, spring is intended to maintain the legs in the folded position and to urge the strut downward. However, spring has the ability to

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absorb vibrations since it is well known in the art that spring can be used to absorb vibrations of any kind.

In response to applicant's argument that Minagawa '737 reference does not show or suggest positioning damping material to reduce vibrations in a bracket configured to be connected to the object. The Examiner clearly disagrees. With the references of Harris '620 (bipod) in view of Minagawa '737 (tripod), it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified a bipod assembly as taught by Harris '620 as applied above with three legs spaced apart approximately 60 degrees about a vertical axis by Minagawa '737, wherein doing so would provide thereof stronger support and more stable.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd M. Epps
Patent Examiner
Art Unit 3632
January 24, 2006


ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600